

## WESTERN AREA LICENSING SUB COMMITTEE

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### DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 1 MAY 2018 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A PERSONAL LICENCE

#### **Present:**

Cllr Peter Hutton, Cllr Jim Lynch and Cllr Stewart Palmen (Substitute - Part II)

#### **Also Present:**

The Applicant

Carla Adkins (Public Protection Officer – Licensing), Sarah Marshall (Senior Solicitor), Lisa Pullin (Democratic Service Officer), Susan Thurman-Newall (Licensing Officer – Wiltshire Police)

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#### 1 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

#### **Resolved:**

**To elect Councillor Peter Hutton as Chairman for this meeting only.**

#### 2 **Apologies for Absence/Substitutions**

Cllr Stewart Palmen was substituting for Cllr Ian Thorn.

#### 3 **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 5 – 12 of the Agenda refers).

#### 4 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

5 **Declarations of Interest**

There were no interests declared.

6 **Exclusion of the Public**

**Resolved:**

**That the public be excluded from the meeting to prevent the disclosure of information relating to an individual in accordance with Section 14(2) of The Licensing Act 2003 (Hearings) Regulations 2005. It would not, on balance, be in the public interest to disclose this information because disclosure of the personal information would not be fair to the applicant and would breach their data protection rights and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

7 **Licensing Application**

**Application for a Personal Licence**

Carla Adkins (Public Protection Officer – Licensing) introduced the purpose and scope of the application and the key issues for consideration. Carla highlighted the following:

- This was an application for a Personal Licence made in accordance with Section 117 of the Licensing Act 2003;
- As the Applicant had been convicted of a “relevant” offence the Local Authority notified the Chief Officer of Wiltshire Police to that effect in accordance with Section 120 (4); and
- Wiltshire Police duly gave notice of objection on 11 April 2018 to the personal licence application on the basis that the granting of a personal licence to an individual with such convictions would undermine the licensing objective – the prevention of crime and disorder.

The Chairman wished to clarify the following questions with Wiltshire Police:

Q If a Personal Licence was to be granted would the Applicant have to make a separate application to be a Designed Premises Supervisor (DPS) for the premises they are currently employed at?

A Yes, if it was an existing premise, they would need to apply to Vary the DPS and because of the relevant offences, Wiltshire Police would be notified of any relevant offences of the Applicant, following which they would issue an objection notice which would require a hearing by the Licensing Sub Committee.

Q If a Personal Licence was to be granted would that follow the Applicant in whichever premises they might be employed?

A Yes, a Personal Licence follows a person and is valid in England and Wales.

In accordance with the procedure detailed in the agenda, the Applicant and Wiltshire Police (Responsible Authority) were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, were:

- My life is in a different place now, and although I knew that convictions take time to become “spent”, I was under the impression that this time had now passed;
- I have made mistakes but I am now married and settled down. I have the support of the community in this venture and I wish to move forward and better myself. I have been in full time employment since 2011 and I am now a Head Chef having worked my way up. I did run my own kitchen and the opportunity arose to run a pub and we agreed to take it on so that it didn't close;
- Myself and my partner have both carried out the Personal Licence course and I wanted to do this for my own self achievement; and
- I was advised that that I would be better off making this application later next year when my conviction would become spent and I did ask if I had anything to lose by making my application now. If I fail, I will apply again as I am trying to move forward with my life.

The Sub Committee members then asked the Applicant the following question:

Q Have you got any experience/completed any training in relation to running and managing a pub?

A I am self-taught and learning as I go. I would be happy to complete any relevant training. I have friends in the industry who I talk to and a friend who works for a brewery. I like to learn.

Key points raised by Susan Thurman-Newall from Wiltshire Police as Responsible Authority were:

- When the notice of “relevant” offences was received in relation to this application for a Personal Licence, initial enquiries were made by Wiltshire Police and it was noted that the Applicant received a relevant

conviction in 2009 and that this offence would not become spent until November 2019 under the Rehabilitation of Offenders Act 1974;

- Following further investigation, Wiltshire Police became aware of the Applicant's 12 convictions for 31 offences which were of course a cause on concern the Police. In 2005, the Applicant was convicted of 5 offences, a number of these under the Theft Act 1968. The Applicant received penalties of imprisonment to run consecutively, resulting in a term of 6 years imprisonment. The Rehabilitation of Offenders Act 1974 states that where there is a custodial sentence of more than 4 years the offence will never become "spent";
- With this information, the Police informed the Applicant by telephone conversation that Wiltshire Police would be objecting to the application as the 2009 offence was not yet spent, together with the caution that was received in 2013 for possession of a class B drug. Because of this and the Applicant's lack of a proven record in the running of a late-night economy establishment, the current pub's rural location and concerns over the patrons in the area drink driving and underage drinking, the Police would urge the Sub Committee not to grant this application.

The parties were then invited to make any points in summation.

The Responsible Authority made no summation.

The Applicant made the following points:

- I don't condone my past – I am where I am and I would like to move forward with my life.

The Sub Committee then adjourned at 10:30 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Applicant and Responsible Authority were advised that they would receive a telephone call later today with the outcome of the hearing and that the decision would be published on the Council's website within 5 working days. They would then receive the decision in writing.

The Sub Committee agreed the following decision and the hearing was ended at 10:45.

**Resolved:**

**The Western Area Licensing Sub Committee resolved to uphold the notice of objection issued by Wiltshire Police and reject the application for a personal licence.**

**Reasons:**

After taking into account the written representations from the parties and the oral arguments received at the hearing from the Applicant and the Police, the Sub Committee carefully considered the concerns raised by the Police that the grant of a personal licence to the Applicant would undermine the licensing objective for the prevention of crime and disorder.

The Sub Committee having regard to the Council's statutory duties under the Licensing Act 2003 and the licensing objectives considered it appropriate for the prevention of crime and disorder to reject the application.

From the evidence presented, and given the nature of the relevant offences, the Sub Committee considered there was a risk of reoffending in this instance, such as would prejudice the crime prevention licensing objective. The Applicant had a relevant conviction that would never be spent under Rehabilitation of Offenders Act 1974.

The Sub Committee acknowledged the Applicant's desire to move forward and were supportive of his efforts at rehabilitation but were concerned that apart from obtaining the certified qualification in order to apply for a personal licence, the Applicant had not undertaken nor demonstrated a firmer commitment to undergo further formal training. The Sub Committee were also concerned the Applicant had undertaken no formal training in managing challenging situations in a rural public house (such as dealing with drink driving or under age-drinking).

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 120 and schedule 4); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

**Right to Appeal:**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision.

(Duration of meeting: 10.00 - 10.45 am)

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